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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/566,423

01/30/2006

Thorsten Siess

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FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

EXAMINER

DINGA, ROLAND

ART UNIT

PAPER NUMBER

3766

MAIL DATE

DELIVERY MODE

08/09/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/566,423	SIESS, THORSTEN	
	Examiner	Art Unit	
	ROLAND DINGA	3766	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

THE FINALITY OF THE LAST OFFICE HAS BEEN WITHDRAWN IN FAVOR OF THIS ONE.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3 and 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siess et al (WO 2002/043791, herein Siess), relying on the translation provided by the US national stage application (US2004/0044266) of that international application pending any request by applicant for a machine translation (in view of Sammler et al (US6544216) previously cited) and further in view of Garcia (US 5,037,403). Siess discloses a pumping device (10) percutaneous insertion[see figures 12; abstract;[0026]]. Catheter (13) connect the pump 10 at it proximal end and at the suction side distal end with a cannula (18) having inlet 24 openings remote from the pump (10)[FIG.1-2;[0026](in the case opening (17) is considered "outlet" and (24) "inlet")]. Siess discloses an opening for passage of guidewire (34)[fig.1-2,9-15;[0036,0038] and in claim 6]. Siess failed to disclose a flexible projection provided at the cannula distal of all of the inlet openings, wherein the flexible projection forms a spacer for keeping the inlet openings spaced apart from adjacent heart walls. However, Sammler discloses a flexible projection (see elements 46,48)[FIG.4-6] at the distal end of cannula (14a,14b)

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[FIG.4-6] , the flexible projection (46,48) is capable of forming a spacer for keeping the distal end of the cannula spaced apart from adjacent heart walls[FIG.4-6]. The projection has an opening (49)[FIG.6] and projection (46,48) has an outer diameter that is smaller than that of the cannula(14a,14b) and projection is a hollow hose whose lumen (49,50) is in communication with that of the cannula (14a,14b)[FIG.4-6]. Thus, it would have been obvious to one with ordinary skills in the art by the time the invention was made to modify Siess with the flexible projection of Sammler in order to achieve the predictable results of prevent the distal end of the cannula from touching the heart walls and blocking the inlet. Neither Siess nor Sammler discloses a pigtail tip. Garcia discloses that the distal end of catheter (10) defines a "pigtail" (18) that is to stay a spiral section as shown [see figure.1; col.3, lines 39-40; col.2, lines 53-68]. Thus it would have been obvious to one with ordinary skills in the art by the time the invention was made to modify Sammler to have a pigtail tip in view of Garcia since to substitute one apparatus for the other to achieve the predictable result of minimizing trauma[col.2,lines 61-62].

Response to Arguments

3. Applicant's arguments with respect to claims 1-3 AND 5-9 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Griep (US 5,163,431) discloses a catheter 1 for insertion into the

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patient comprises an end part 6 and the end part has a curved form, a catheter of the so called "pigtail" type[see figures 1-2;col.2,lines 56-68].

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROLAND DINGA whose telephone number is (571)270-3644. The examiner can normally be reached on Monday through Friday from 8:30am to 5:00pm EST..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl H. Layno can be reached on 571 272 4949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eric D. Bertram/
Primary Examiner, Art Unit 3766

/ROLAND DINGA/
Examiner
Art Unit 3766